

COLUMBUS MARKETER, INC.; SOUTHERN CONVENIENCE STORES, INC.; RUTHERFORD MANAGEMENT CORPORATION; and WAFFLE HOUSE, INC.,

v.

Defendant.

THIS MATTER having come before the court in accordance with 28, United States Code, Section 636(c), and on defendant's Motion to Dismiss, pursuant to Rule 12(b)(1), Motion to Dismiss Pursuant to Rule 12(b)(6), and Motion for Summary Judgment Pursuant to Rule 56 (#19), and plaintiffs' Response (#22) and defendant's Reply (#24), and having carefully considered such motions and pleadings, and having determined that defendant is entitled to the relief it seeks for the reasons discussed in the Memorandum of Decision filed simultaneously herewith.

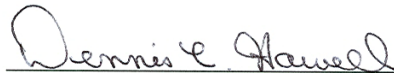
- (1) summary judgment is **GRANTED** in favor of defendant and against plaintiffs as to plaintiffs' first, fourth, and ninth causes of action;
- (2) dismissal without prejudice is **GRANTED** on the federal claims contained in plaintiffs' second, third, fifth, and sixth causes of action;
- (3) the court declines to exercise supplemental jurisdiction over plaintiffs' state causes of action contained in plaintiffs' second, third, fifth, and sixth causes of action, in accordance with 28, United States Code, Section 1367(c)(3), and such claims are,

therefore, **DISMISSED** without prejudice;

- (4) summary judgment is **GRANTED** in favor of defendant and against plaintiffs as to the preliminary injunctive aspects of plaintiffs' seventh and tenth causes of action, and insofar as plaintiffs seek permanent injunctive relief, the seventh and tenth causes of action are **DISMISSED** without prejudice inasmuch as the federal causes of action upon which such a remedy could be fashioned have not yet ripened;
- (5) plaintiffs' eighth cause of action is **DISMISSED** with prejudice for failure to state a claim; and
- (6) plaintiffs' "eleventh cause of action" is **DISMISSED** without prejudice for failure to state a claim.

Further, it is Ordered, Adjudged, and Decreed that plaintiffs take nothing of defendant in this action.

Signed: February 2, 2006



Dennis L. Howell
United States Magistrate Judge

